

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

V.

**ONE OR MORE UNKNOWN PURCHASERS
OF SECURITIES OF MARTEK
BIOSCIENCES CORPORATION,**

Defendants.

Case No. 10-CV-9527(WHP)

ECF case

JOINT DISCOVERY PLAN PURSUANT TO FED. R. CIV. P. 26(f)

Pursuant to Rule 26(f) of the Federal Rules of Civil Procedure and Stipulation and Order on Consent Imposing Preliminary Injunction and Other Relief, a telephone conference was held on January 18, 2011. The following counsel participated in the conference: (1) Richard Hong and Louis J. Gicale, Jr. for Plaintiff Securities and Exchange Commission (“Commission”); and (2) Douglas M. Tween for Defendant One or More Unknown Purchasers of Securities of Martek Biosciences Corporation, a/k/a Giuseppe Abatemarco. In preparation for the February 8, 2011 conference with the Court, the above-referenced counsel have conferred and jointly submit the following discovery plan as required by Fed. R. Civ. P. 26(f).

1. Addition of Parties and Amendments of Pleadings

The parties request that the deadline to join additional parties and/or amend the pleadings be March 21, 2011.

2. Proposed Discovery Plan

a. Subjects on Which Discovery May Be Needed

The key factual and legal issues in this insider trading action relate to the SEC's allegations that in December 2010, Defendant Abatemarco traded in the securities (call options) of Martek Biosciences Corporation ("Martek") in violation of federal securities law. The discovery in this action may relate to the following subjects, among others:

- i. The acquisition of Martek by another company, including the disclosure of information regarding the acquisition;
- ii. Defendant's trading in Martek, including the circumstances leading up to the trading and the reason(s) for the trading;
- iii. Defendant's securities trading history before December 2010;
- iv. Defendant's scienter when he traded in Martek securities (call options); and
- v. Any market data or publicly available information regarding the impending acquisition of Martek by Royal DSM N.V., or regarding the trading, value and price of Martek.

b. Changes in the Limitation of Discovery

The parties agree each side will be allowed to take up to 15 fact depositions. The parties do not recommend any other changes to the limitations on discovery contained in the Federal Rules of Civil Procedure.

c. Discovery Deadline

The parties agree that this case will require discovery from individuals and entities located outside of the United States, particularly in Switzerland. It is likely that the parties may need to use letters rogatory or other means to compel discovery from individuals and entities located outside of the United States, which will likely take additional time. Accordingly, the parties request the following schedule, with leave for the parties to apply to the Court for modification as necessary.

Fact discovery cut-off: March 29, 2012.

Expert discovery cut-off: July 31, 2012;

Opening reports due: May 29, 2012; and

Rebuttal reports due: June 29, 2012.

Dispositive motions due: September 7, 2012.

Joint Pretrial Order due: Thirty (30) days after the decision on any dispositive motion.

Alternatively, if no dispositive motion is filed, the Joint Pretrial Order will be due on September 30, 2012.

Proposed Pretrial Conference and Trial date: The parties request that the final pretrial conference in this matter be set 14 days after the filing of the Joint Pretrial Order. The parties request that the trial in this matter be set on a date that is convenient to the Court.

3. Prospect for Settlement

The parties have engaged in preliminary discussions regarding a possible settlement of this action. The discussion did not result in any agreement regarding the possibility of a settlement.

4. Estimated Length of Trial

The parties believe that the jury trial of this matter will take approximately five (5) court days.

Dated: January 26, 2011

**SECURITIES AND EXCHANGE
COMMISSION**

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SO ORDERED.

Dated: _____

The Honorable William H. Pauley III
United States District Judge